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**Pro hac vice* applications will be filed

Attorneys for Plaintiff
M/A-COM Technology Solutions Holdings, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

M/A-COM TECHNOLOGY
SOLUTIONS HOLDINGS, INC.,

Plaintiff,

v.

GIGOPTIX, INC.,

Defendant.

Case No.

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff M/A-COM Technology Solutions Holdings, Inc., by and through its attorneys
2 Perkins Coie LLP, files this Complaint for Patent Infringement against GigOptix, Inc.
3 (“GigOptix”), stating as follows:

4 **THE PARTIES**

5 1. M/A-COM Technology Solutions Holdings, Inc. is a corporation organized and
6 existing under the laws of the State of Delaware, with its principal place of business and
7 headquarters located at 100 Chelmsford Street, Lowell, Massachusetts 01851.

8 2. On information and belief, Defendant GigOptix is a corporation organized and
9 existing under the laws of the State of Delaware with its principal place of business and
10 headquarters located at 130 Baytech Drive, San Jose, California 95134.

11 **JURISDICTION AND VENUE**

12 3. This is an action for patent infringement arising under the Patent Laws of the
13 United States, 35 U.S.C. § 1 *et seq.*, including but not limited to 35 U.S.C. §§ 271 and 281.

14 4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.
15 §§ 1331 and 1338(a).

16 5. On information and belief, GigOptix has solicited and transacted business in this
17 District, including business directly related to the patent infringement cause of action set forth
18 herein.

19 6. This Court has personal jurisdiction over GigOptix because, among other things,
20 GigOptix is conducting business in this District and has committed acts giving rise to this action
21 within this District.

22 7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (d) and
23 1400(b) because GigOptix conducts business in this District, GigOptix has committed acts giving
24 rise to this action in this District, a substantial part of the events or omissions giving rise to the
25 claims herein occurred in this District, and GigOptix is subject to personal jurisdiction in this
26 District.

INTRADISTRICT ASSIGNMENT

8. Intradistrict assignment is proper in San Jose pursuant to Local Rule 3-2 because a substantial part of the acts giving rise to the claims asserted herein occurred in Santa Clara County and because GigOptix maintains its principal place of business in Santa Clara County.

FACTUAL BACKGROUND

9. M/A-COM Technology Solutions Holdings, Inc. is a holding company which consolidates the operations of numerous subsidiaries worldwide, including M/A-COM Technology Solutions Inc., a Delaware corporation, its principal operating subsidiary. Unless otherwise indicated, references in this complaint to “MACOM” shall mean MACOM and its consolidated subsidiaries.

10. MACOM is a leading provider of high performance analog semiconductor solutions for use in wireless and wireline applications. MACOM designs and manufactures standard and custom devices, integrated circuits, components, modules, and sub-systems, and has design, fabrication, manufacturing, assembly, test, and operational facilities in a number of geographies. MACOM’s customers include entities from the networking, aerospace, defense, automotive, medical, and mobile industries.

11. On information and belief, GigOptix is a fabless supplier of semiconductor and optical components related to high speed information streaming. GigOptix focuses on the specification, design, development, and sale of, among other products, polymer modulators, such as those using electro-optics polymers.

12. MACOM and GigOptix both supply components for use in high speed optical communications systems operating at 10, 40, and 100 gigabits per second (Gbps). In some cases, MACOM and GigOptix compete for the same business.

13. On February 19, 2002, the United States Patent and Trademark Office issued United States Patent No. 6,348,992 (“the ’992 patent”), entitled “Sterically Stabilized Polyene-Bridged Second-Order Nonlinear Optical Chromophores and Devices Incorporating the Same.” A copy of the ’992 patent is attached hereto as Exhibit A.

1 14. M/A-COM Technology Solutions Holdings, Inc. is the owner and assignee of all
2 right, title, and interest in and to the '992 patent.

3 15. On March 26, 2002, the United States Patent and Trademark Office issued United
4 States Patent No. 6,361,717 ("the '717 patent"), entitled "Sterically Stabilized Second-Order
5 Nonlinear Optical Chromophores and Devices Incorporating the Same." A copy of the '717
6 patent is attached hereto as Exhibit B.

7 16. M/A-COM Technology Solutions Holdings, Inc. is the owner and assignee of all
8 right, title, and interest in and to the '717 patent.

9 17. On information and belief, GigOptix makes, uses, imports, offers to sell, and/or
10 sells in the United States nonlinear optical devices that utilize electro-optics polymers
11 incorporating chromophores that infringe one or more claims of the '992 patent and the '717
12 patent. On further information and belief, the infringing nonlinear optical devices include certain
13 GigOptix Mach-Zehnder modulator products, including products GigOptix markets or promotes
14 as containing "Thin Film Polymer on Silicon ('TFPSTM') technology.

15 18. On information and belief, GigOptix has had knowledge of the '992 patent and the
16 '717 patent since at least June of 2009 by virtue of the *Pacific Wave Industries, Inc. v. University*
17 *of Southern California* litigation (Case No. BC403355 (Cal. Super. Ct., L.A. County)), in which
18 its merged entity, Lumera Corporation, was named as a defendant. That litigation involved,
19 among other allegations, claims of breach of contract and unfair competition relating to research
20 that resulted in the '992 and '717 patents, including allegations specifically relating to patents and
21 licenses derived from that research. On information and belief, the '992 and '717 patents were
22 identified during the litigation and/or settlement negotiations, if not earlier.

23 19. GigOptix has thus had knowledge of the '992 patent and the '717 patent since at
24 least June of 2009, and nevertheless infringed the '992 patent and the '717 patent despite
25 knowledge that its actions constituted infringement of those patents.

FIRST CLAIM FOR RELIEF

(Infringement of United States Patent No. 6,348,992)

20. Plaintiff incorporates by reference paragraphs 1-19.

21. GigOptix has been and currently is infringing one or more claims of the '992 patent in violation of 35 U.S.C. § 271(a), including but not limited to claims 15 and 17, by, among other things, making, using, importing, offering to sell, and/or selling in the United States products that embody the patented invention, including, for example, GigOptix Mach-Zehnder modulator products incorporating electro-optics polymers with chromophores.

22. GigOptix's infringement of the '992 patent has been willful and intentional because it has knowledge of the '992 patent, yet continues to infringe the patent by committing the acts described above.

23. GigOptix has been and currently is indirectly infringing one or more claims of the '992 patent in violation of 35 U.S.C. § 271(b) by inducing end users of GigOptix products to directly infringe one or more claims of the '992 patent through their use of the products.

24. On information and belief, GigOptix engages in such inducement knowingly, and has done so with knowledge that such activity encourages end users of the infringing products to directly infringe one or more claims of the '992 patent.

25. GigOptix has been and currently is indirectly infringing one of more claims of the '992 patent in violation of 35 U.S.C. § 271(c) by selling or offering to sell in the United States products that are components for use in practicing the invention claimed in the '992 patent.

26. The GigOptix products are material to practicing the invention and have no substantial non-infringing uses.

27. On information and belief, GigOptix engages in such contributory infringement knowingly, and has done so with knowledge that these components are especially made or adapted for use in infringing the '992 patent.

28. GigOptix's infringement of the '992 patent has caused and will continue to cause MACOM both monetary damage and irreparable harm for which it has no adequate remedy at law.

1 29. Unless this Court enjoins GigOptix's infringing conduct, MACOM will continue
2 to be irreparably harmed by GigOptix's infringement of the '992 patent.

3 **SECOND CLAIM FOR RELIEF**

4 **(Infringement of United States Patent No. 6,361,717)**

5 30. Plaintiff incorporates by reference paragraphs 1-29.

6 31. GigOptix has been and currently is infringing one or more claims of the '717
7 patent in violation of 35 U.S.C. § 271(a), including but not limited to claims 11, 14, 15, and 16,
8 by, among other things, making, using, importing, offering to sell, and/or selling in the United
9 States products that embody the patented invention, including, for example, GigOptix Mach-
10 Zehnder modulator products incorporating electro-optics polymers with chromophores.

11 32. GigOptix's infringement of the '717 patent has been willful and intentional
12 because it has knowledge of the '717 patent, yet continues to infringe the patent by committing
13 the acts described above.

14 33. GigOptix has been and currently is indirectly infringing one or more claims of the
15 '717 patent in violation of 35 U.S.C. § 271(b) by inducing end users of GigOptix products to
16 directly infringe one or more claims of the '717 patent through their use of the products.

17 34. On information and belief, GigOptix engages in such inducement knowingly, and
18 has done so with knowledge that such activity encourages end users of the infringing products to
19 directly infringe one or more claims of the '717 patent.

20 35. GigOptix has been and currently is indirectly infringing one of more claims of the
21 '717 patent in violation of 35 U.S.C. § 271(c) by selling or offering to sell in the United States
22 products that are components for use in practicing the invention claimed in the '717 patent.

23 36. The GigOptix products are material to practicing the invention and have no
24 substantial non-infringing uses.

25 37. On information and belief, GigOptix engages in such contributory infringement
26 knowingly, and has done so with knowledge that these components are especially made or
27 adapted for use in infringing the '717 patent.

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1 38. GigOptix's infringement of the '717 patent has caused and will continue to cause
2 MACOM both monetary damage and irreparable harm for which it has no adequate remedy at
3 law.

4 39. Unless this Court enjoins GigOptix's infringing conduct, MACOM will continue
5 to be irreparably harmed by GigOptix's infringement of the '717 patent.

6 **PRAYER FOR RELIEF**

7 Accordingly, Plaintiff M/A-COM Technology Solutions Holdings, Inc. respectfully
8 requests that this Court enter judgment against Defendant GigOptix as follows:

9 40. A declaration that GigOptix has infringed the '992 patent;

10 41. A declaration that GigOptix has infringed the '717 patent;

11 42. A declaration that GigOptix's infringement was willful;

12 43. A preliminary and permanent injunction against continuing infringement of any of
13 the claims of the '992 and '717 patents in any manner by GigOptix and its respective officers,
14 directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all
15 others acting in active concert therewith;

16 44. An accounting for damages in an amount adequate to compensate MACOM for
17 GigOptix's infringement, but in no event less than a reasonable royalty, including up to treble
18 damages for willful infringement, and together with interest thereon;

19 45. A judgment in favor of MACOM that this is an exceptional case under 35 U.S.C.
20 § 285, and an award to MACOM of its costs, including its reasonable attorney fees and other
21 expenses incurred in connection with this action;

22 46. An award of prejudgment interest under 35 U.S.C. § 284 and post-judgment
23 interest under 35 U.S.C. § 1961 on all damages awarded; and

24 47. Such other costs and further relief as the Court may deem just and proper.

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JURY DEMAND

Plaintiff respectfully demands a jury trial on all issues so triable.

DATED: August 22, 2013

PERKINS COIE LLP

By: /s/ James F. Valentine
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M/A-COM Technology Solutions Holdings, Inc.